

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
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UNITED STATES OF AMERICA,

v.

SHENG-WEN CHENG,

Defendant.

No. 21-cr-261 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

On August 11, 2021, Defendant Sheng-Wen Cheng was sentenced principally to a term of 72 months' imprisonment following his guilty plea to four counts of fraud. Two years later, Mr. Cheng filed a motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A), arguing that a reduced sentence was appropriate because he was the victim of a prison stabbing and because he faced harsh prison conditions during the COVID-19 pandemic. *See* Doc. No. 69.

Since Cheng filed that motion, Amendment 821 to the United States Sentencing Guidelines took effect, on November 1, 2023. As relevant here, Amendment 821 provides a two-level reduction in total offense level for defendants who did not receive any criminal history points and meet several other criteria. *See* U.S.S.G. § 4C1.1(a). The Sentencing Commission has made these amendments retroactive.

The Probation Department has issued a report indicating that Mr. Cheng is eligible for the two-point reduction in section 4C1.1(a). *See* Doc. No. 80. According to that report, Mr. Cheng's amended Guidelines range should be 63 to 78 months instead of the original range of 78 to 97 months.

Mr. Cheng's eligibility under Amendment 821 would largely moot his motion for compassionate release, since he could obtain a resentencing without demonstrating the sort of

“extraordinary and compelling reasons” required by 18 U.S.C. § 3582(c)(1)(A). Accordingly, it is hereby ordered that no later than October 25, 2024, the government and Mr. Cheng shall advise the Court of their positions on whether Mr. Cheng is eligible for a reduced sentence under Amendment 821 and section 4C1.1(a). The parties may also supplement the section 3553(a) arguments made in their compassionate release filings, including by explaining whether any new factual developments counsel for or against a reduced sentence.

SO ORDERED.

Dated: October 21, 2024
 New York, New York



Ronnie Abrams
United States District Judge